

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EDWIN ALFREDO GARCIA,
Plaintiff,

v.

EDWARD ACOSTA, GYPSUM
MANAGEMENT AND SUPPLY, INC.,
ENTERPRISE FLEET MANAGEMENT,
INC. and EDWIN BLADIMIR GARCIA
Defendants

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Civil Action No.: _____

NOTICE OF REMOVAL

Defendants, GYPSUM MANAGEMENT AND SUPPLY, INC. (“Gypsum”) AND ENTERPRISE FLEET MANAGEMENT, INC. (“Enterprise”) (collectively “Defendants”), file this Notice of Removal of this dispute to the United States District Court for the Southern District of Texas, Houston Division, and respectfully would show as follows:

I. GROUNDS FOR REMOVAL

1. This case is removable to this Court based on diversity jurisdiction pursuant to 28 U.S.C. §1332(a).

2. Plaintiff, EDWIN ALFREDO GARCIA, is an individual citizen of Harris County, Texas.

3. Defendant GYPSUM MANAGEMENT AND SUPPLY, INC. is a Georgia corporation and maintains its principal place of business in Tucker, Georgia; therefore, it is a citizen of the state of Georgia and is not a citizen of the state of Texas.

4. Defendant ENTERPRISE FLEET MANAGEMENT, INC. is a Missouri corporation and maintains its principal place of business in St. Louis, Missouri; therefore, it is a citizen of the state of Missouri and is not a citizen of the state of Texas. Defendant believes ENTERPRISE FM

TRUST is the correct entity and it is a Delaware corporation and maintains its principal place of business in St. Louis, Missouri; therefore, it is a citizen of the state of Missouri and Delaware.

5. Defendant EDWARD ACOSTA is an unserved Defendant and may be disregarded for removal purposes.

6. Defendant EDWIN BLADIMIR GARCIA is an unserved Defendant and may be disregarded for removal purposes.

7. As described more fully below, Plaintiff seeks to recover an amount in excess of \$250,000 but less than \$1,000,000, excluding interest and costs in a state court action.

II. NATURE OF THE PENDING STATE CASE

8. On or about May 3, 2021, Plaintiff filed a civil action against Defendants styled EDWIN ALFREDO GARCIA v. GYPSUM MANAGEMENT AND SUPPLY, INC., ENTERPRISE FLEET MANAGEMENT, INC., EDWARD ACOSTA and EDWIN BLADIMIR GARCIA under Cause No. 2021-26217, in the 113th Judicial District Court of Harris County, Texas.¹

9. The subject matter of this suit is a personal injury, wherein Plaintiff alleges in his Original Petition that he was injured in a motor vehicle accident on May 3, 2019 in Houston, Texas by an vehicle driven by Defendant Edward Acosta.²

10. The name and address of the court from which the case is being removed is:

113th Judicial District Court of Harris County
Harris County Civil Courthouse
201 Caroline, 10th Floor
Houston, Texas 77002

¹ See *Plaintiff's Original Petition* attached hereto as Exhibit B.

² *Id.* at ¶4.1.

III. STATE COURT DOCUMENTS

11. Defendants have attached hereto the documents required to be filed with this Notice of Removal pursuant to LR 81:

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| EXHIBIT “A” | Index of Matters Being Filed |
| EXHIBIT “B” | Plaintiff’s Original Petition |
| EXHIBIT “C” | Defendant’s Original Answer |
| EXHIBIT “D” | Copy of the State Court Docket Sheet/Record |
| EXHIBIT “E” | List of all counsel of record, addresses, telephone numbers, and parties |
| EXHIBIT “F” | Public Entity Information: GYPSUM MANAGEMENT AND SUPPLY, INC. |
| EXHIBIT “G” | Public Entity Information: ENTERPRISE FLEET MANAGEMENT INC. and ENTERPRISE FM TRUST |

IV. JURISDICTION

12. Pursuant to 28 U.S. Code § 1441(a), Defendants remove this action to the District Court of the United States for the Southern District of Texas, Houston Division, because it is the District and Division embracing the place where such action is pending. In support thereof, Defendants would show that this action is between citizens of different states, and the amount in controversy exceeds \$75,000.00.³

13. Plaintiff, a resident of Texas,⁴ brought suit against Gypsum, a corporation domiciled in Georgia;⁵ Enterprise, a corporation domiciled in Missouri⁶; and individuals with allegations of

³ Exhibit “B,” at ¶11.1.

⁴ *Id.* at ¶2.1.

⁵ Exhibit “F”.

citizenship of Texas, but who have not been served;⁷ seeking recovery for alleged personal injuries in excess of \$250,000.⁸

14. Because Plaintiff and all served Defendants are citizens of different states and because Plaintiff seeks to recover an amount exceeding \$75,000.00 exclusive of interest and costs, removal is therefore proper under 28 U.S.C. § 1332(a).

V. TIMING OF REMOVAL

15. To the best of its knowledge, service of process on Defendants Gypsum and Enterprise in the state court action was effectuated on May 5, 2021. Defendants Gypsum and Enterprise filed answers in the state court action on May 19, 2021. Accordingly, this Notice of Removal is being filed within 30 days of service of the petition upon the first served Defendant pursuant to 28 U.S.C. § 1446(b).

16. This Notice of Removal is filed less than one year after commencement of the action, pursuant to 28 U.S. Code § 1446(c).

17. This Notice of Removal is therefore timely filed.

VI. NOTICE TO ADVERSE PARTIES AND STATE COURT

18. Defendants Gypsum and Enterprise will give Plaintiff prompt written notice of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

19. Defendants Gypsum and Enterprise will also file a copy of this Notice of Removal with the 113th Judicial District Court of Harris County, Texas, where the state court action is currently pending, as required by 28 U.S.C. § 1446(d).

⁶ Exhibit “G”

⁷ Exhibit “B,” at ¶¶2.2 and 2.5.

⁸ *Id.* at ¶11.1.

VII. CONSENT TO REMOVAL BY DEFENDANTS

20. All served Defendants consent to this removal as required by 28 U.S.C. §1446(b).

VIII. ANSWER

21. Defendants Gypsum and Enterprise have filed their Answers in the state court action prior to this Notice of Removal.

IX. CONCLUSION AND PRAYER

22. In light of the foregoing, Defendants, GYPSUM MANAGEMENT AND SUPPLY, INC. and ENTERPRISE FLEET MANAGEMENT, INC. respectfully remove this civil action styled EDWIN ALFREDO GARCIA v. GYPSUM MANAGEMENT AND SUPPLY, INC., ENTERPRISE FLEET MANAGEMENT, INC., EDWARD ACOSTA and EDWIN BLADIMIR GARCIA, originally pending under Cause No. 2021-26217, in the 113th Judicial District Court of Harris County, Texas.

23. Defendants pray for such other and further relief, both general and special, at law and in equity, to which Defendants may show themselves justly entitled.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

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ATTORNEYS FOR DEFENDANTS,
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and ENTERPRISE FLEET MANAGEMENT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been served to the following on May 19, 2021:

Attorney for Plaintiff:

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/s/ David C. Deiss
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